

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF WASHINGTON

In the Matter of the Application
regarding the Conversion and
Acquisition of Control of Premera Blue
Cross and its Affiliates.

No. G 02-45

JOINT MOTION TO EXTEND CASE
SCHEDULE IN TWENTY-THIRD
ORDER

RELIEF REQUESTED

PREMERA and Premera Blue Cross (collectively, "Premera") and the Staff of the Office of the Insurance Commissioner (the "OIC Staff") jointly move the Commissioner to modify the Twenty-Third Order (Order Extending Case Schedule) by changing the deadline for Premera to file amendments to its Form A from January 8 to February 5, 2004, and extending all other deadlines in the Twenty-Third Order an equivalent four weeks. The OIC Staff and Premera ask for an expedited hearing and decision, so that the parties can act in accordance with the Commissioner's direction.

GROUND FOR RELIEF

The OIC Staff and its consultants, on the one hand, and Premera, on the other hand, have been working diligently since the entry of the Commissioner's Twenty-Third Order in furtherance of the purposes that underlie that Order—namely, to discuss and seek to address or narrow the issues raised by the OIC Staff consultants' reports. The OIC Staff, the States' consultants, and Premera have been meeting regularly through the date

1 of this motion. In accordance with the Twenty-Third Order, the Intervenor's have been
2 given observation rights with respect to the parties' meetings. The OIC Staff and Premera
3 have also shared with the Intervenor's counsel the documents exchanged between them
4 relating to this matter.

5 The OIC Staff and Premera believe that substantial progress has been made in
6 these meetings and that, if given additional time, they can make significant additional
7 progress toward meeting the objectives of the Twenty-Third Order. The OIC Staff and
8 Premera agree that, if the deadline for filing Form A amendments is extended four weeks,
9 all future deadlines should be extended an equivalent period.¹ The Commissioner's
10 decision, for example, would be due on July 5, 2004, rather than June 7.

11 Attached is a red-lined version of the Twenty-Third Order, showing the precise
12 dates proposed by the OIC Staff and Premera.² The OIC Staff and Premera believe that
13 these dates are achievable and should not have an adverse impact on the Intervenor's or the
14 public. The Intervenor's have been able to listen to the discussions thus far and will
15 continue to have that opportunity during the next four weeks. Moreover, they have had
16 and will continue to have access to the draft documents that are being generated through
17 these discussions. In this way, the Intervenor's will be as well-informed as the OIC Staff
18 and Premera as to the bases for any amendments to the Form A.

22 ¹ Judge Finkle should be directed to modify his Procedural Order (dated December 19,
23 2003) by extending the deadlines set forth in paragraphs 1, 2, and 4 thereof by four weeks.
24 The OIC Staff and Premera agree that the granting of this motion should not prejudice the
right of any party to seek relief with respect to the provisions of the Twenty-Fourth Order,
including modification of any deadlines therein.

25 ² The red-lined draft order adds a sentence clarifying the fourth deadline by requiring that
redactions of supplemental reports submitted by the Intervenor's experts be completed in
the same seven-day time frame as redactions of the supplemental reports by the OIC
Staff's experts and Premera's experts. This requirement is intended to promote timely
posting of all supplemental reports on the OIC website.

1 CONCLUSION

2 Granting a four-week extension of the deadline for filing an amended Form A, and
3 extending the other case schedule deadlines for an equivalent period, will permit the OIC
4 Staff and Premera to continue their discussions. These discussions should enhance the
5 review process by sharpening or narrowing the issues to be addressed at the hearing and
6 enabling the parties to focus on those issues in their respective presentations.

7 The OIC Staff and Premera therefore respectfully request that the Commissioner
8 issue an order modifying the Twenty-Third Order in accordance with the attached
9 proposed order.

10 DATED this 8th day of January, 2004.

11
12 CHRISTINE O. GREGOIRE
13 Attorney General

14 By John Hamje By RBM per telephone
15 Melanie DeLeon, WSBA #30100 authorization
16 Assistant Attorney General
17 John Hamje, WSBA # 32400
18 Special Assistant Attorney General
19 Attorneys for the OIC Staff

20 PRESTON GATES & ELLIS LLP

21 By Robert B. Mitchell
22 Thomas E. Kelly, Jr., WSBA # 05690
23 Robert B. Mitchell, WSBA # 10874
24 Attorneys for PREMERA
25 and Premera Blue Cross

FAX COVER SHEET

TO: Jeffrey Coopersmith FAX NO: (206) 343-1001
COMPANY: Coopersmith Health Law Group CONFIRMATION NO: (206) 343-1000

FROM: Robert B. Mitchell CLIENT-MATTER NO: #34458-00009
DATE: January 8, 2004 TOTAL NUMBER OF PAGES INCLUDING THIS COVER SHEET: 8

IF YOU DO NOT RECEIVE ALL OF THE PAGES, PLEASE CONTACT: ☒ FAX OPERATOR: (206) 623-7580
☐ NAME:
EXT:

COMMENTS

The information contained in this facsimile is confidential and may also be attorney-privileged. The information is intended only for the use of the individual or entity to whom it is addressed. If you are not the intended recipient, or the employee or agent responsible for delivering it to the intended recipient, you are hereby notified that any use, dissemination, distribution or copying of this communication is strictly prohibited. If you have received the facsimile in error, please immediately notify us by a collect telephone call to (206) 623-7580, and return the original message to us via the U.S. Postal Service. Thank you.

A LAW FIRM

A LIMITED LIABILITY PARTNERSHIP INCLUDING OTHER LIMITED LIABILITY ENTITIES

1
2
3
4
5
6
7
8 BEFORE THE INSURANCE COMMISSIONER
9 OF THE STATE OF WASHINGTON

10 In the Matter of the Application
11 regarding the Conversion and
12 Acquisition of Control of Premera Blue
13 Cross and its Affiliates.

No. G 02-45

14 TWENTY-THIRD-FIFTH ORDER:
15 ORDER EXTENDING CASE
16 SCHEDULE
17 [PROPOSED]

18 PREMERA and Premera Blue Cross ("Premera") and the OIC Staff jointly moved
19 for an extension of the case schedule to permit the opportunity to amend its Premera's
20 Form A filing. I have reviewed the Premera's motion and proposed order, the OIC Staff's
21 response, and the papers filed by the Interveners. A hearing was held in Tumwater on
22 December 10 January 8, 2003 at which I heard arguments from the parties. As a result of
23 the hearing, Premera, OIC Staff, and the Interveners agreed to modify the deadlines of the
24 case schedule. Based upon their the parties' agreement and my determination that a
25 modified schedule will ensure adequate review by the parties, the public, and me of any
potential changes to the terms of Premera's proposed transaction, the case schedule set
forth in the Thirteenth Order is modified as follows:

TWENTY-THIRD-FIFTH ORDER:
ORDER EXTENDING CASE
SCHEDULE 1

<u>Deadline</u>	<u>Action</u>
January 8 <u>February 5,</u> 2004	Premera files amendments to its Form A, if any, with the OIC. Amendments that may be filed will be considered within the current review process and will not start a new Form A process.
January 30 <u>February 27,</u> 2004	Previously identified testifying experts of the OIC Staff may submit supplemental reports addressing the effect of changes, if any, in the Form A. Intervenor will receive reports and treat them as AEO under the Protective Order until redacted versions are available. Redactions will be completed within one week. Within four days after the deadline for reports, the OIC Staff will produce all documents relied upon by consultants in preparing their supplemental reports to Premera and the Intervenor.
February 6 <u>March 5,</u> 2004	Previously identified testifying experts of Premera may submit supplemental reports addressing the effect of changes, if any, in the Form A. Intervenor will receive reports and treat them as AEO under the Protective Order until redacted versions are available. Redactions will be completed within one week. Within four days after the deadline, Premera will produce all documents relied upon by its consultants in preparing their supplemental reports to the OIC Staff and the Intervenor.
February 13 <u>March 12,</u> 2004	Previously identified testifying experts of the Intervenor may submit supplemental reports addressing the effect of changes, if any, in the Form A. This is also the last day for the Intervenor to submit document requests (if any), limited to changes (if any) in the Form A. Within four days after this deadline, the Intervenor will produce all documents relied upon by their consultants in preparing their supplemental reports to Premera and the OIC Staff. <u>Redactions of the supplemental reports of the Intervenor's experts will be completed by March 19, 2004.</u>
February 17 <u>March 16,</u> 2004	Disclosure of new fact witnesses by Intervenor (may not be OIC Staff or Premera-related)
February 23 <u>March 22,</u> 2004	Notwithstanding the discovery cutoff of December 5, 2003, the parties may depose experts who have submitted supplemental reports on the subject matter of those supplements and ask for documents, if any, related to changes in the Form A. If ADI experts are allowed to testify or their reports are allowed to be submitted, this deadline will apply to their depositions as well.

TWENTY-THIRDFIFTH ORDER:
ORDER EXTENDING CASE
SCHEDULE 2

1	March 31, 2004	Parties submit pre-filed direct testimony
2	March 18 April 15, 2004	Parties submit pre-filed responsive testimony
3		
4	March 29 April 26 – May 7, 2004	Hearing
5		
6	April 19 May 17, 2004	Deadline for post-hearing submissions
7		
8	June 7 July 5, 2004	Commissioner's decision

8 Except as expressly modified by the foregoing, the case schedule set forth in the
9 Thirteenth Order shall remain unchanged.

10 At any meeting that takes place between December 11, 2003 and ~~January~~
11 ~~8~~ February 5, 2004 between the OIC Staff and Premera to discuss concerns raised by the
12 OIC Staff or its consultants with respect to Premera's Form A Statement, the Interveners
13 will have observation rights—that is, one representative of the Interveners' counsel may
14 be present during that meeting. The OIC Staff and Premera will also share with the
15 Interveners' counsel contemporaneously all e-mail and documents exchanged between
16 them between December 11, 2003 and ~~January 8~~ February 5, 2004 that relate to this
17 matter. The Interveners shall treat all such discussions, e-mail, and documents as AEO.
18
19

20 The Commissioner authorizes his counsel, together with Premera's counsel, to
21 propose and file a stipulated modification of the Stipulation of Parties and Final Order
22 entered by Judge Casey on September 12, 2003, to provide an extension of the decision
23 deadline therein from March 15, 2004 to ~~June 7~~ July 5, 2004. The Special Master is
24 directed to to modify his Procedural Order (dated December 19, 2003) by extending the
25

TWENTY-THIRDFIFTH ORDER:
ORDER EXTENDING CASE
SCHEDULE 3

1 deadlines set forth in paragraphs 1, 2, and 4 thereof by four weeks. This Order shall not
2 prejudice the right of any party to seek relief with respect to the provisions of the Twenty-
3 Fourth Order, including modification of any deadlines therein.
4

5
6 MIKE KREIDLER
7 INSURANCE COMMISSIONER
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

TWENTY-THIRDFIFTH ORDER:
ORDER EXTENDING CASE
SCHEDULE 4